

## **REMARKS**

Applicants' representative would like to thank Examiner Lee for the courtesies extended during a telephonic interview conducted on December 23, 2008. During the interview, arguments were presented that the cited art of record fails to disclose the particular structure and flow path arrangement as recited in Applicants' independent Claim 1. In particular, the Examiner's characterization of the Komada *et al.* (U.S. Pat. No. 7,201,991) reference requires that gases pass from the second planar manifold into the first planar manifold prior to reaching the active element. In response, Applicants' representative proposed an amendment to more clearly define the recited flow path.

The Examiner was receptive to the proposed arguments and believed that the proposed amendment appeared to distinguish over the Komada reference. The Examiner indicated that further searching may be required. No exhibits were shown or demonstrations conducted.

Claims 1-9 are now pending in the application and have been finally rejected. By this paper, Claim 1 has been amended. The basis for the foregoing amendments can be found throughout the specification, claims, and drawings as originally filed. No new matter has been added. The preceding amendments and the following remarks are believed to be fully responsive to the outstanding Office Action and are believed to place the application in condition for allowance. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

## **PRIOR ART REJECTIONS**

Claims 1-3 and 5-9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Komada *et al.* (U.S. Pat. No. 7,201,991). Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Komada in view of Bronoel *et al.* (U.S. Pub. No. 2001/0006745). These rejections are respectfully traversed.

In maintaining the aforementioned rejections, the Examiner noted that “the orifice lies over said active element and thus reads on the limitation ‘orifice over said active element’.” See Advisory Action dated December 23, 2008. During the telephonic interview on December 23, 2008, the Examiner further explained that the clause “over said active element” was being interpreted as defining the *physical location* of the second planar manifold, rather than as defining *the flow path of the gases*. Accordingly, Applicants have amended Claim 1 to more clearly define this flow path.

Applicants respectfully submit that Claim 1 is now in condition for allowance as Komada (or the other art of record) does not teach, suggest or disclose each and every element of amended Claim 1. In particular, Komada fails to teach a flow path from the second planar manifold across the active element before passing into the first planar manifold.

In the Examiner’s characterization of the Komada reference, gases must pass from the region identified as the second planar manifold into the region identified as the first planar manifold prior to reaching the active element. See Office Action dated October 8, 2008, pp. 2-3 and Komada, col. 9, lines 28-44. In contrast, Applicants’ amended Claim 1 recites in part:

...wherein a flow path is established from said second planar manifold, through said orifice, **across said active element, and back into said first planar manifold.**

When these differences are understood, it is clear that the fuel cell recited in Claim 1 is structurally and functionally different from the fuel cell described in Komada. Further, the teachings of the other art of record, including Bronoel, fail to remedy these deficiencies of Komada.

As Claims 2-9 depend from Claim 1, they should likewise be in condition for allowance. Accordingly, in view of at least the above discussion, Applicants respectfully request the Office to reconsider and withdraw the rejections of Claim 1-9 under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a).

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

/David A. McClaughry/

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